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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,238	08/13/2001	Stephen F. Gass	SDT 315	8811

27630 7590 05/27/2003

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EXAMINER

DRUAN, THOMAS J

ART UNIT PAPER NUMBER

3724

DATE MAILED: 05/27/2003

*5*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/929,238

Applicant(s)

GASS ET AL.

Examiner

Thomas J. Druan, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 20-21, 23, 25-26, & 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,637,289 to Ramsden.

Ramsden discloses the invention as claimed including an up-cut chop saw, comprising: a frame 2 having a surface 18 adapted to support a workpiece; a rotatable blade 70 on spindle 14 configured to cut workpieces by moving from below the surface of the frame to at least partially above the surface of the frame (column 2, lines 55-58); at least one motor 10 configured to drive the blade; at least one actuating mechanism 28, a fluid-actuated cylinder, operable to move the blade upward at least partially above the surface of the frame and also downwards after the blade has been moved above the surface of the frame; a detection system 62 configured to detect one or more dangerous

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conditions between a user and the blade; and a reaction system 124 configured to stop the upward motion of the blade and to retract the blade below the surface of the frame upon detection of a dangerous condition by the detection system.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,637,289 to Ramsden in view of US 3,946,631 to Malm and US 4,117,752 to Yoneda.

Ramsden discloses the invention substantially as claimed, including a blade 70, a motor 10, a detection means 62 to detect an unsafe condition and a reaction system 124 to move the blade away from a cutting zone, but lacks detection means to detect contact between a user and the blade. Malm teaches the use of a saw that uses a fluid-actuated cylinder 64 controlled in conjunction with an electrical switch 84 that is used to lower blade 56. Yoneda teaches the use of a detection device that is used in conjunction with a rotatable blade 14 whereupon contact between a user and the blade with trigger a reaction system in order to prevent or reduce injury to the user. It would have been obvious to include the electrical switch of Malm to move the blade of Ramsden away from the cutting zone upon detection of contact between a user and the

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blade of Ramsden as taught by Yoneda in order to prevent or reduce injury to the user. Ramsden is not a miter saw, but an up-cut saw is well known to be analogous to a miter saw, but is on an arm that pivots upwards into a cutting zone as opposed to downwards into a cutting zone. Yoneda teaches stopping rotation of the blade with at least one break mechanism 20, coupled to the support structure, upon detection of contact between a person and the blade in order to reduce the chance of injury. If the brake mechanism were located on a portion of the rotating cutting blade that was going towards the cutting zone, the angular momentum of the blade would create an opposite impulse upon application of a brake and therefore the blade would move away from the cutting zone. Yoneda also teaches the use of a second mechanism B that creates an electromagnetic impulse against movement of the blade into the cutting zone. If an impulse is created by a brake mechanism, then the brake will have moved the pivot arm away from the cutting zone.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsden in view of Malm and Yoneda in further view of US 5,272,949 to McCullough et al. (hereinafter McCullough).

Ramsden in view of Malm and Yoneda discloses the invention substantially as claimed, but lacks a brake pawl adapted to pivot into the teeth of the blade. McCullough teaches using a brake pawl 77 to engage the teeth of a wheel in order to quickly stop a rotating shaft. Therefore, it would have been obvious to one skilled in the art to use the pawl brake of McCullough to engage the teeth of the blade 70 in order to quickly stop the blade from rotating.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsden in view of McCullough.

Ramsden discloses the invention substantially as claimed, but lacks a brake pawl adapted to pivot into the teeth of the blade. McCullough teaches using a brake pawl 77 to engage the teeth of a wheel in order to quickly stop a rotating shaft. Therefore, it would have been obvious to one skilled in the art to use the pawl brake of McCullough to engage the teeth of the blade 70 in order to quickly stop the blade from rotating.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsden in view of McCullough.

Ramsden discloses the invention substantially as claimed but lacks a pawl adapted to engage a cam portion of the swing arm to stop motion of the swing arm towards the workpiece upon detection of the dangerous condition. McCullough teaches the use of a pivoted pawl 75 that cooperates with a cam 57 to operate a switch. It would have been obvious to one skilled in the art to use the pawl of McCullough with a cam portion 140 of Ramsden in order to operate the exhaust switch in order to halt movement of the swing arm towards the work piece upon detection of a dangerous condition.

### ***Double Patenting***

9. Claims 20-21, 23, 25 & 28-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

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claims 1, 15, and 16 of copending Application No. 09/955,418. Although the conflicting claims are not identical, they are not patentably distinct from each other because they encompass the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Druan, Jr. whose telephone number is 703-308-4200. The examiner can normally be reached on M-F (8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700

  
tjd  
May 19, 2003